

server 27 to the Internet for communication among the various networks 19 and/or processors 11, 13, 15, 17 and other end users connected through respective servers 25 (Gerace at column 3, lines 57-62). Quite possibly, Figure 2 of Gerace may provide that the program 31 in its most general form has an agate data assembly 71, a user profiling member 73, an advertisement module 75 and a program controller 79.

Column 5, lines 26-39 of Gerace arguably provides that:

In addition, for each advertisement, advertisement module 75 (and/or user profiling member 73) records (a) the number of times and/or number of users to whom the advertisement has been displayed, (b) the number of times/users who have requested more information (via a click of a mouse on a corresponding menu selection) regarding the advertisement, and when possible (c) the number of purchases obtained through program 31's display of the advertisement. As such, advertisement module 75 holds performance data for each advertisement, and hence enables program controller 79 to provide performance reports to sponsors who log on to program 31. Various regression techniques and the like are used in the performance reports in a manner consistent with the state of the art.

Column 15, lines 11-24 of Gerace arguably teaches an equation that may include:

(#hits purchased / #hits achieved).

Gerace arguably teaches that the pricing may be dependent on the number of times the ad is viewed by users (i.e., a "hit") (Gerace at column 12, lines 11-12).

Column 15, lines 11-24 of Gerace arguably teaches an equation that may include:

(#clickthroughs purchased / # clickthroughs achieved).

Gerace arguably teaches that the pricing may be dependent on the number of times a user selects to view more information from the ad (i.e., a "click through") (Gerace at column 12, lines 12-14).

The Office Action contends that a Home Page of Gerace is readable upon an entrance page of the claimed invention (Office Action at page 3). The Office Action further contends that Financial Pages, etc. of Gerace are readable upon an action page of the claimed invention (Office Action at page 3).

However, the claimed invention found in the present application provides for:

- a page access number that is the number of the accesses to the entrance page of said web site during a predetermined period of time,
- an action access number that is the number of accesses to said action page, and
- a result number that is the number of actions made in response to an action object for necessitating processing at said action process module.

The claimed invention additionally provide that a proceeder rate, which is the ratio of the action access number to said page access number, and a completer rate, which is the ratio of the result number to said page access number. In this regard, the Office Action admits that the claimed page access number and the claimed proceeder rate are absent from within Gerace (Office Action at page 5).

Thus, Gerace fails to disclose, teach, or suggest a proceeder rate, which is the ratio of the action access number to said page access number, and a completer rate, which is the ratio of the result number to said page access number.

Domine - The Office Action refers to Domine for the features admittedly deficient from within Gerace. Domine arguably teaches a web browser detection and default home page modification device.

The Office Action relies upon column 3, lines 62 to column 4, line 12 of Domine as support for the motivation to combine the teachings of Domine with those of Gerace (Office Action at page 4). That passage within Domine merely provides that:

First, increased traffic at a Web Site is directly related to that Site's ability to charge increased amounts for electronic advertising. That is, companies placing advertisements for their products and/or services want to receive the maximum amount of exposure. The HOMER device maximizes potential advertiser exposure at a particular Web Site by causing individuals to start each and every browsing session at that Site. HOMER--together with further individual customization of the HOMER-adopted Home Page--creates a "captive target market" for advertisers.

However, column 3, lines 62 to column 4, line 12 of Domine fails to account for the features admittedly absent from within Gerace of claimed page access number and the claimed proceeder rate.

Next, the Office Action contends, without providing any evidentiary support, that "because proceeder number is a measure of the rate at which web site traffic is converted to ad viewers, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to also add reporting of proceeder number to the teachings of Gerace" (Office Action at page 4).

In response, the teachings, suggestions or incentives supporting the obviousness-type rejection must be clear and particular. Broad conclusory statements, standing alone, are not evidence. *In re Dembiczak*, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). As a result, this contention is merely a personal conclusion that is unsupported by any objective evidence.

In addition, "it is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps. The references themselves must provide some teaching whereby the applicant's combination would have been obvious" (citations omitted). *In re Gorman*, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). See also *In re Dembiczak*, 50 USPQ2d 1614, 1616 (Fed. Cir. 1999) (rejection based upon hindsight is reversed).

This assertion amounts to nothing more than an "obvious-to-try" situation. Specifically, "an 'obvious-to-try' situation exists when a general disclosure may pique the scientist's curiosity, such that further investigation might be done as a result of the disclosure,

but the disclosure itself does not contain a sufficient teaching of how to obtain the desired result, or that the claimed result would be obtained if certain directions were pursued." *In re Eli Lilly & Co.*, 14 USPQ2d 1741, 1743 (Fed. Cir. 1990). Moreover, "an invention is 'obvious-to-try' where the prior art gives either no indication of which parameters are critical or no direction as to which of many possible choices is likely to be successful." *Merck & Co. Inc. v. Biocraft Laboratories Inc.*, 10 USPQ2d 1843, 1845 (Fed. Cir. 1989).

Here, the cited prior art does not contain a sufficient teaching of how to obtain the desired result, or that the claimed result would be obtained if certain directions were pursued. "Obvious to try" is not the standard under §103. *In re O'Farrell*, 7 USPQ2d 1673, 1680 (Fed. Cir. 1988).

The Office Action has also failed to show that the claimed page access number and the claimed proceeder rate, which is admittedly absent from within Gerace is found within Domine. Therefore, even when Gerace is combined with the Domine, the proceeder rate and the completer rate cannot be determined from the combination thereof.

As shown hereinabove, Gerace and Domine, either individually or as a whole, fail to disclose, teach, or suggest the all features of the claimed invention.

Withdrawal of this rejection an allowance of the claims is respectfully requested.

Dated: June 13, 2006

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